

REMARKS

The Office action of July 11, 2003 has been carefully considered and the application has been amended accordingly.

The Examiner objected to the original specification and has required correction. The newly submitted substitute specification, claims and Abstract comprise an effort to place the application in accord with U.S. requirements. On information and belief, the completely revised application papers do not present any new matter, and substitution for the original papers is believed to be in order and is courteously solicited.

It is to be appreciated that the originally presented claims were, essentially, a direct translation of the original priority application. The claims were therefore drafted in the conventional style of including an introductory portion which sets out the known prior art, followed by the latter portion of the claim defining the novelty and advance in the art. Thus it is to be expected that the first portion of applicant's original claims are readable upon a prior art reference. In the present instance, the prior art reference is the patent to Adler *et al.* which, as acknowledged by the Examiner on page 3 of the Office action, was cited by applicant in the original specification. This style of claim drafting is well known throughout the patent profession but does not, in and of itself, provide a basis for a rejection that cites one piece of prior art for the introduction, and a second piece of prior art for the remainder of the claim.


Original claims 1-17 were rejected under 35 U.S.C. 112 because, *inter alia*, the metes and bounds cannot be ascertained. Likewise, this objection was repeated in the rejections predicated upon prior art. In view of the amendments to the claims, and presentation of amended claims 28-54 (which track the numbering of original claims 1-27) applicant believes that the Examiner will find the

new claims more understandable than those previous presented. In view thereof, it is respectfully requested that the Examiner reconsider the rejections in light of the amendments thereto and the amendments to the specification.

Applicant submits that the cited prior art is not amenable to being combined to meet applicant's novel invention. Adler *et al.* provides different sources of radiation and different beam formation means at the separate diagnostic and surgery stages. Applicant uses one and the same sources of radiation and beam forming means at both of these stages. Combining the teachings and/or suggestions of Adler *et al.* and Komardin is not appropriate in view of the fact that the latter does not consider the issues of radiation action on the tumor for killing it. Thus, applicant submits that the rejections based upon these prior art patents, alone or in combination, must be withdrawn.

In view of the foregoing, reconsideration of the application is requested and allowance of claims 28-54 is courteously solicited.

Respectfully submitted,



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